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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,805	10/02/2000	William Bedingham	55943 USA 1A	3624

32692 7590 03/08/2004

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EXAMINER

GORDON, BRIAN R

ART UNIT PAPER NUMBER

1743

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/677,805	BEDINGHAM ET AL.	
	Examiner	Art Unit	
	Brian R. Gordon	1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1-20-2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8, 13 and 16-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-43 is/are allowed.
- 6) ☒ Claim(s) 6, 13, 16, 20 and 44 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 17-19, 45-49 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>3-1-04; 2-9-04</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

2. Applicant's arguments with respect to claims 6, 13, 16, and 20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6, 13, 16, 20, and 44 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6, 13, 16, 20, and 44 recite an apparatus for processing sample materials; however, the claims do not clearly indicate where and how the sample is processed. Is the sample processed by in one of the filter material, in the fluid chambers, in the retention structure, and the multi-chambered processing device or all of the above?

It appears as if applicant's device comprises two-types of stationary chambers with the plurality of stationary fluid chambers that are present in the platform. A first set of chambers that actually holds the sample to processed in the processing device and a second set that contains filters for filtering the processed samples. As presently drafted,

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the claims do clearly express this arrangement of the invention. As presently drafted, the claims do not particularly point out the relationship and function the elements in reference to the sample materials.

5. The following claims drafted by the examiner and considered to distinguish patentably over the art of record in this application, were presented to applicant for consideration:

6. An apparatus for processing sample materials, the apparatus comprising:
a platform comprising an upper surface and a lower surface;
a plurality of stationary fluid chambers opening at the upper surface of the platform;
wherein at least some of said plurality of stationary fluid chambers further comprise sample material to be processed and
at least some of said stationary fluid chambers comprise filter material for filtering a processed sample;
a rotating, multi-chambered processing device;
a retention structure occupying a portion of the upper surface of the platform, wherein the retention structure is capable of retaining said rotation multi-chambered processing device;
wherein said sample is processed within the rotating multi-chambered processing device.

13 An apparatus for processing sample materials, the apparatus comprising:
a platform comprising an upper surface and a lower surface;
a plurality of stationary fluid chambers opening at the upper surface of the platform;
wherein the plurality of stationary fluid chambers are arranged in rectilinear array on the upper surface of the platform and at least some of said stationary fluid chambers further comprise sample material to be processed; and
a retention structure occupying a portion of the upper surface of the platform; and
a processing device located within the retention structure proximate the upper surface of the platform, the processing device comprising a plurality of process chambers wherein the processing device comprises a plurality of process chambers, wherein the processing device is capable of being rotated within the retention structure to rotate the plurality of process chambers in order to process said sample material and...(the rest of the claim as presented).

16. An apparatus for processing sample materials, the apparatus comprising:
a platform comprising an upper surface and a lower surface;
a plurality of stationary fluid chambers opening at the upper surface of the platform;

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wherein at least some of said plurality of stationary fluid chambers further comprise sample material to be processed and

at least some of said stationary fluid chambers comprise filter material for filtering a processed sample;

a retention structure occupying a portion of the upper surface of the platform; and a processing device located within the retention structure proximate the upper surface of the platform, the processing device comprising a plurality of process chambers wherein the processing device comprises a plurality of process chambers, wherein the processing device is capable of being rotated within the retention structure to rotate the plurality of process chambers in order to process said sample material.

20. An apparatus for processing sample materials, the apparatus comprising:

a platform comprising an upper surface and a lower surface;

a plurality of stationary fluid chambers opening at the upper surface of the platform;

wherein at least some of said plurality of stationary fluid chambers further comprise sample material to be processed

a retention structure occupying a portion of the upper surface of the platform;

a processing device located within the retention structure proximate the upper surface of the platform, the processing device comprising a plurality of process chambers wherein the processing device comprises a plurality of process chambers, wherein the processing device is capable of being rotated within the retention structure to rotate the plurality of process chambers in order to process said sample material,
wherein the processing device is captive within the retention structure.

In claim 44, line 7 add the phrase "to process said sample material;" so as to read "~~moves~~ the plurality of process chambers in a circular pattern to process said sample material;

Applicant refused the above amendment and declined to present any proposed amendments that would also obviate the above 112 issues.

Allowable Subject Matter

6. Claims 21-43 allowed.

7. Claims 6, 13, 16, 20, and 44 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

8. Claims 7-8, 17-19, and 45-49 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: see previous office action.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, with 2nd and 4th F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

brg


Jill Warden
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Technology Center 1700